

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PABLO OLIVEIRA DOS REIS,

The Petitioner,

v.

JOSEPH D. MCDONALD, JR., Sheriff,
Plymouth Sheriff's Office,

Respondent.

Civil Action No. 1:25-CV-10497-RGS

RESPONDENT'S MOTION TO DISMISS

Respondent, by and through his attorney, Leah B. Foley, United States Attorney for the District of Massachusetts, respectfully moves this Court to dismiss Petitioner's Verified Petition for Writ of Habeas Corpus & Habeas Corpus ad Prosequendum et Testificandum pursuant to 28 U.S.C. §2241 ("Petition") in its entirety pursuant to Fed. R. Civ. P. 12(b)(1) and Fed. R. Civ. P. 12(b)(6). Petitioner requests that this Court (1) issue a writ of habeas corpus mandating that the Respondents transport the Petitioner to all state court hearings, and (2) declare that the Petitioner is not a flight risk and order the Petitioner's release from immigration custody on bail and conditions of release.

The Petitioner's request to be transported to his state court proceedings, is moot, as the parties have agreed to have the Petitioner participate in those state court proceedings by Zoom.

The Petitioner's request that this Court allow for his release, despite the Immigration Court's order of detention, and despite his pending appeal of that detention order before the Board of Immigration Appeals, must be dismissed for lack of subject matter jurisdiction. First,

the Petitioner has failed to exhaust his administrative remedies. Second, the Immigration Court's decision to detain the Petitioner is not subject to review by this Court. For these reasons, the Petition should be dismissed in its entirety for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1).

Alternatively, if this Court chose to review the Immigration Court's bond order, the Petitioner has failed to state a claim showing that the Immigration Court abused its discretion. Accordingly, this claim also fails under Federal Rule of Civil Procedure 12(b)(6).

In support of this Motion, Defendant respectfully refers the Court to its Memorandum of Law, filed herewith.

WHEREFORE, Defendant respectfully requests that Plaintiff's Complaint be dismissed with prejudice.

Respectfully submitted,

LEAH B. FOLEY
United States Attorney

Dated: March 17, 2025

By: /s/ Shawna Yen
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7.1 CERTIFICATION

I, Shawna Yen, hereby certify that I conferred with Plaintiff regarding this Motion via telephone conference on March 6, 2025. We were able to narrow the issues for review as stated in III(B) of the attached Memorandum.

Dated: March 17, 2025

By: /s/ Shawna Yen
SHAWNA YEN
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed through the Electronic Court Filing system and will be sent electronically to the registered participants as identified on the NEF and paper copies to those not registered.

Dated: March 17, 2025

By: /s/ Shawna Yen
SHAWNA YEN
Assistant U.S. Attorney